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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,332	01/23/2001	David Lahiri Bhatoolaul	14-28-6-1-19	9373

22046 7590 04/13/2004

LUCENT TECHNOLOGIES INC.
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HOLMDEL, NJ 07733

EXAMINER

DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2686

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DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,332

Applicant(s)

BHATOOLAUL ET AL.

Examiner

Willie J. Daniel, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required.
See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The *1st joint inventor* did not provide a **date** of his/her signature.

Specification

2. The objection to the specification is withdrawn

Claim Objections

3. The objection to the **Claim 3** is withdrawn.

Drawings

4. The objection to **Fig. 2** is withdrawn.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1, 3, and 5/3** are rejected under 35 U.S.C. 102(b) as being anticipated by **Shimizu et al.** (hereinafter Shimizu) (**EP 0328100 A2**).

Regarding **Claim 1**, Shimizu discloses a packet radio communication system which reads on the claimed “cellular radio telecommunications network” comprising:

a first base station (B1); and

a second base station (B2), in which communications between a mobile station (M1) in a first zone (Z1) which reads on the claimed “cell” and the first base station (B1) are handed to the second base station (B2) as the mobile station enters a second cell (Z2) under control of a central station (C1) which reads on the claimed “radio network controller”, wherein the second base station (B2) receives information from the radio network controller (C1) to send downlink data to the mobile station (M1) and receives uplinked data from the mobile station (M1), wherein the second base station (B2) first receives the information from the radio network controller (C1) then receives an uplink from the mobile station (M1) and only then sends the downlink data to the mobile station (M1) (see col. 2, lines 4-12, 22-27, 47-54; col. 3, line 6-30; col. 4, lines 44-48; col. 9, lines 12-21; col. 9, line 35 - col. 10, line 9; Figs. 1 and 6), where the central station provides the base station with information and the mobile station

sends uplink data to the base station in which the base station then sends downlink data to the mobile station.

Regarding **Claim 3**, Shimizu discloses a method of operation a cellular radio telecommunications network comprising the steps of

handing off communications between a mobile station (M1) in a first cell (Z1) and a first base station (B1) to a second base station (B2) as the mobile station (M1) enters a second cell (Z2) under control of a radio network controller (C1) (see col. 4, lines 37-48; Figs. 1 and 6); and

controlling the second base station (B2), in response to information from the radio network controller (C1), to receive an uplink frame from the mobile station (M1) and only then send downlink data to the mobile station (M1) (see col. 2, lines 4-12, 22-27, 47-54; col. 3, lines 6-30; col. 9, lines 12-21; col. 9, line 35 - col. 10, line 9; Fig. 6).

Regarding **Claim 5/3**, a computer program for carrying out the method step of claim 3 is rejected for the reason set forth above in the rejection of claim 3. Claim 3 serve as the basis for having claim 5/3. The computer program the claim would be inherent.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, and 5/4 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shimizu et al.** (hereinafter Shimizu) (**EP 0328100 A2**) in view of **Wejke et al.** (hereinafter Wejke) (**US 5,175,867**).

Regarding **Claims 2 and 4**, Shimizu teaches a second base station being controlled by the radio network controller or central station to send downlink or down-direction data to the mobile station after receiving the uplink or up-direction frame or data (see col. 2, lines 4-12, 22-27, 47-54; col. 3, lines 6-30; Figs. 6 and 8). The difference between Shimizu and the claimed invention is that the power level or threshold of the uplink frame from the mobile station has to be detected by the second base station at a greater or exceeding power level set by the radio network controller.

Wejke teaches a network comprising of a means of detecting the power level or strength quality of a call (see col. 8, lines 59-63, 66-68; col. 9, lines 1-2; Figs. 5, 6a, and 6b).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Shimizu et al. with Wejke et al. to have the downlink data sent by the second base station to the mobile station only after the second base

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station received the uplink frame from the mobile station detected at greater or exceeding power level set by the radio network controller.

The advantage of combining these teachings is to eliminate the possibility of signal interference or loss of communication during the handoff from the first base station to the second base station.

Regarding **Claim 5/4**, a computer program for carrying out the method step of claim 4 is rejected for the reason set forth above in the rejection of claim 4. Claim 4 serve as the basis for having claim 5/4. The computer program of the claim would be inherent.

Response to Arguments

8. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.
9. In response to applicant's argument which refers to Claims 1, 3, and 5/3 on page 6, paragraphs 6-7 to page 8, paragraph 1, Examiner respectfully disagrees because Shimizu does disclose the central station controlling the base station during handover of a mobile station to send data downlink as addressed in the claims above.
10. In response to applicant's comments of Claims 2, 4, and 5 on page 8, third paragraph, are rejected for the same reasons set forth for Claims 1 and 3.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WJD,JR/wjd,jr
07 April 2004

Marsha D. Banks-Harold
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